

California Regional Water Quality Control Board
Santa Ana Region

October 26, 2001

ITEM: 16

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Joseph Lee, 450 Whipporwill Drive, Highgrove, Riverside County

DISCUSSION:

On September 10, 2001, Joseph Lee contacted staff requesting approval for the use of a second septic tank-subsurface disposal system at the above-referenced site. Mr. Lee resides in a house located at the site. An existing subsurface disposal system located in front of the house is utilized for the discharge of sanitary wastes from the house. The property is just under one-half acre in size (21,549-sq. ft. or 0.49 acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of sanitary wastes.

Mr. Lee proposes to construct a 25 foot wide by 65 foot long barn with a bathroom. The barn will be located adjacent to the rear property line. Mr. Lee proposes to install an individual septic tank-subsurface disposal system to serve the barn.

On October 13, 1989, the Regional Board adopted a Basin Plan amendment that requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwaters of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was appropriate to distinguish between “existing” developments using subsurface disposal systems, (i.e., those already in place or approved at the time the MLSRs were adopted), and “new” developments. Thus, the Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to “new” developments. Mr. Lee's residence was constructed prior to the minimum lot size requirements. Consequently, the use of the existing septic tank-subsurface disposal system has been exempt from the minimum one-half acre requirement.

In adopting the MLSRs, the Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs addressed these circumstances. Additions to existing dwellings (bedrooms/baths) are exempt from the MLSRs, if the existing septic system could accommodate the resultant additional wastewater flows. However, the MLSRs state that any proposal to add any

freestanding structures that would result in additional wastewater flows must be considered a “new” development, to which the minimum lot size requirement applies. The proposed barn will be a freestanding structure. As such, the project as a whole (the existing house and barn addition) must be considered a “new” development and the one-half acre minimum lot size requirement would apply. To satisfy the MLSRs, the existing house and the proposed barn would each require one half-acre minimum lot size. As Mr. Lee’s lot is under one-half acre in size, staff was required to deny his request for a clearance for the project.

The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property. The purpose of the barn is to provide a work and storage area for Mr. Lee’s cars.

Board staff has advised Mr. Lee of another option identified in the Board’s exemption criteria, which allows project proponents to implement an acceptable offset project. Mr. Lee could proceed with his proposed development if he connected another septic system (that would not otherwise be required to be connected to the sewer) to the sewer.

RECOMMENDATION:

Deny Mr. Lee’s request for an exemption from the minimum lot size requirements for the use of a second septic system.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon
Riverside County Department of Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Department of Building and Safety – Tom Ingram
Riverside County Department of Planning – Mark Balys